

Rec'd PCT/PTO

11 MAY 2001

#4
09/743690

FORM PTO-1390 (REV. 11-2000)		U.S. DEPARTMENT OF COMMERCE PATENT AND TRADEMARK OFFICE	ATTORNEY'S DOCKET NUMBER 020829-000100US
TRANSMITTAL LETTER TO THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US) CONCERNING A FILING UNDER 35 U.S.C. 371			U.S. APPLICATION NO. (If known, see 37 CFR 1.5) 09/743,690
INTERNATIONAL APPLICATION NO. PCT/NZ99/00110	INTERNATIONAL FILING DATE July 15, 1999	PRIORITY DATE CLAIMED July 15, 1998	
TITLE OF INVENTION CHIMERIC PEPTIDES ALLOWING EXPRESSION OF PLANT-NOXIOUS PROTEINS			
APPLICANT(S) FOR DO/EO/US John T. Christeller, Paul William Sutherland, Colleen Murray, Ngaire Patricia Markwick, Bruce Allan Philip, Louise Anne Malone, Elisabeth Burgess, Tammy Fongsavanh			
Applicant herewith submits to the United States Designated/Elected Office (DO/EO/US) the following items and other information:			
<ol style="list-style-type: none">1. <input type="checkbox"/> This is a FIRST submission of items concerning a filing under 35 U.S.C. 371.2. <input checked="" type="checkbox"/> This is a SECOND or SUBSEQUENT submission of items concerning a filing under 36 U.S.C. 371.3. <input type="checkbox"/> This is an express request to begin national examination procedures (35 U.S.C. 371(f). The submission must include items (5), (6), (9) and (21) indicated below.4. <input type="checkbox"/> The US has been elected by the expiration of 19 months from the priority date (Article 31).5. <input type="checkbox"/> A copy of the International Application as filed (35 U.S.C. 37(c)(2))<ol style="list-style-type: none">a. <input type="checkbox"/> is attached hereto (required only if not communicated by the International Bureau).b. <input type="checkbox"/> has been communicated by the International Bureauc. <input type="checkbox"/> is not required, as the application was filed in the United States Receiving Office (RO/US).6. <input type="checkbox"/> An English language translation of the International Application as filed (35 U.S.C. 371(c)(2)).<ol style="list-style-type: none">a. <input type="checkbox"/> is attached hereto.b. <input type="checkbox"/> has been previously submitted under 35 U.S.C. 154(d)(4).7. <input type="checkbox"/> Amendments to the claims of the International Application under PCT Article 19 (35 U.S.C. 371(c)(3)).<ol style="list-style-type: none">a. <input type="checkbox"/> are attached hereto (required only if not communicated by the International Bureau).b. <input type="checkbox"/> have been communicated by the International Bureau.c. <input type="checkbox"/> have not been made; however, the time limit for making such amendments has NOT expired.d. <input type="checkbox"/> have not been made and will not be made.8. <input type="checkbox"/> An English language translation of the amendments to the claims under PCT Article 19 (35 U.S.C. 371 (c)(3)).9. <input checked="" type="checkbox"/> An oath or declaration of the inventor(s) (35 U.S.C. 371(c)(4)).10. <input type="checkbox"/> An English language translation of the annexes of the International Preliminary Examination Report under PCT Article 36 (35 U.S.C. 371(c)(5)). <p>Items 11 to 20 below concern document(s) or information included:</p> <ol style="list-style-type: none">11. <input type="checkbox"/> An Information Disclosure Statement under 37 CFR 1.97 and 1.98.12. <input type="checkbox"/> An assignment document for recording. A separate cover sheet in compliance with 37 CFR 3.28 and 3.31 is included.13. <input type="checkbox"/> A FIRST preliminary amendment.14. <input type="checkbox"/> A SECOND or SUBSEQUENT preliminary amendment.15. <input type="checkbox"/> A substitute specification.16. <input type="checkbox"/> A change of power of attorney and/or address letter.17. <input type="checkbox"/> A computer-readable form of the sequence listing in accordance with PCT Rule 13ter.2 and 35 U.S.C. 1.821 - 1.825.18. <input type="checkbox"/> A second copy of the published international application under 36 U.S.C.19. <input type="checkbox"/> A second copy of the English language translation of the international application under 35 U.S.C. 154(d)(4).20. <input type="checkbox"/> Other items or information: Legal Memorandum, copies of Death Certificate of deceased inventor M. Phung, Will of M. Phung <p>Proof of Authority of Administrator NGUYEN 00000134 201430 09743690</p>			
05/15/2001 02 FC:154 130.00 CH			

Practitioner's Docket No. 020829-000100US**PATENT****IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of: John Tane Christeller, et al.

For: CHIMERIC POLYPEPTIDES ALLOWING EXPRESSION OF PLANT-NOXIOUS PROTEINS
the specification which:

(check and complete (a), (b) or (c))

- (a) ☐ is attached hereto.
- (b) ☐ was filed on _____ as Application No. _____
/ _____ and was amended on _____ (if applicable).
- (c) ☒ was described and claimed in International Application No. PCT/NZ99/00110
filed on July 15, 1999 and as amended on _____
_____ (if any) and received U.S. Serial No. 09/743,690

**PROOF OF AUTHORITY OF ADMINISTRATOR(TRIX), EXECUTOR(TRIX)
OR LEGAL REPRESENTATIVE(S)**

The declaration for the above identified application was signed on behalf of the

☒ deceased☐ incapacitatedinventor Margaret Mary Phung 801

(type or print name of deceased or incapacitated inventor)

by Public Trustee of New Zealand

(type or print name(s) of administrator(trix), executor(trix) legal representative, or all heirs)

Attached is

(check and complete (d) or (e))

- (d) ☐ a certificate of the clerk of a competent court or the register of wills that the appointment of the signatory is still in force and effect.
- (e) ☒ a certificate from the appropriate court that they are all the heirs and that the estate did not require the appointment of an administrator or that they have the authority corresponding to that of an administrator or heir.

(also check and complete (f) and/or (g), if applicable)

- (f) ☐ The court papers mentioned above are not in English. An English translation of such papers are also attached.

NOTE: The translation need not be sworn or affirmed. MPEP § 409.01(a).

- (g) ☐ A consular officer of the United States has authenticated the signature of the foreign officer attesting to the papers submitted as proof of authority.

Date:


SIGNATURE OF PRACTITIONER

Reg. No. 31,677

Kenneth A. Weber

(type or print name of practitioner)

Tel. No. (415) 576-0200


Townsend and Townsend and Crew LLP

P.O. Address

Two Embarcadero Center, 8th fl.

San Francisco, CA 94111

Customer No. 20350

US/ Application no. (if known, see 37 CFR 1.5) 09/743,690	INTERNATIONAL APPLICATION NO. PCT/NZ99/00110	ATTORNEY'S DOCKET NUMBER 02000829-000100US
21. <input checked="" type="checkbox"/> The following fees are submitted:		CALCULATIONS PTO USE ONLY
BASIC NATIONAL FEE (37 CFR 1.492(A) (1) – (5)): Neither international preliminary examination fee (37 CFR 1.492) nor international search fee (37 CFR 1.445(a)(2)) paid to USPTO and International Search Report not prepared by the EPO or JPO \$1000.00 International preliminary examination fee (37 CFR 1.482) not paid to USPTO but International Search report prepared by the EPO of JPO \$860.00 International preliminary examination fee (37 CFR 1.482) not paid to USPTO but international search fee (37 CFR 1.445(a)(2)) paid to USPTO \$710.00 International preliminary examination fee (37 CFR 1.482) paid to USPTO but all claims did not satisfy provisions of PCT Article 33(1)-(4) \$690.00 International preliminary examination fee (37 CFR 1.482) paid to USPTO and all claims satisfied provisions of PCT Article 33(1)(4) \$100.00		
ENTER APPROPRIATE BASIC FEE AMOUNT =		\$
Surcharge of \$130.00 for furnishing the oath or declaration later than <input type="checkbox"/> 20 <input checked="" type="checkbox"/> 30 months from the earliest claimed priority date (37 CFR 1.492(e)).		\$130
CLAIMS	NUMBER FILED	NUMBER EXTRA
Total claims	- 20 =	x \$18.00
Independent claims	- 3 =	x \$80.00
MULTIPLE DEPENDENT CLAIM(S) (if applicable)		+ 270.00
TOTAL OF ABOVE CALCULATIONS =		\$
<input type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27. The fees indicated above are reduced by 1/2.		\$
SUBTOTAL =		\$
Processing fee of \$130.00 for furnishing the English translation later than <input type="checkbox"/> 20 <input type="checkbox"/> 30 months from the earliest claimed priority date (37 CFT 1.492(f)).		\$
TOTAL NATIONAL FEE =		\$130
Fee for recording the enclosed assignment (37 CFR 1.2(h)). The assignment must be accompanied by an appropriate cover sheet (37 CFR 3.28, 3.31). \$40.00 per property +		\$
TOTAL FEES ENCLOSED =		\$130
		Amount to be refunded: \$
		charged: \$
a. <input type="checkbox"/> A check in the amount of \$_____ to cover the above fees is enclosed. b. <input checked="" type="checkbox"/> Please charge my Deposit Account No. <u>20-1430</u> in the amount of \$130 to cover the above fees. c. <input checked="" type="checkbox"/> The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. <u>20-1430</u> . A duplicate copy of this sheet is enclosed. d. <input type="checkbox"/> Fees are to be charged to a credit card. WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.		
NOTE: Where an appropriate time limit under 37 CFR 1.494 or 1.495 has not been met, a petition to revive (37 CFR 1.137(a) or (b) must be filed and granted to restore the application to pending status.		
SEND ALL CORRESPONDENCE TO:		
Kenneth A. Weber Townsend and Townsend and Crew LLP Two Embarcadero Center, 8th fl. San Francisco, CA 94111		
		 SIGNATURE
		<u>Kenneth A. Weber</u> NAME
		<u>31,677</u> REGISTRATION NUMBER

07/743,690



ADDRESS: ASSISTANT COMMISSIONER FOR PATENTS

Box PCT
Washington, DC 20231

U.S. APPLICATION NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
09/743,690	PHUNG	M 020829-00010

KENNETH A WEBER
TWO EMBARCADERO CENTER 8TH FLOOR
SAN FRANCISCO CA 94111

5611

INTERNATIONAL APPLICATION NO.
PCT/NZ99/00110

I.A. FILING DATE	PRIORITY DATE
07/15/99	07/15/98

02/07/01

DATE MAILED:

NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)

1. The following items have been submitted by the applicant or the IB to the United States Patent and Trademark Office as

- ☐ a Designated Office (37 CFR 1.494),
☒ an Elected Office (37 CFR 1.495):

☒ U.S. Basic National Fee.

☒ Copy of the international application in:

- ☐ a non-English language.
☒ English.

☐ Translation of the international application into English.

☐ Oath or Declaration of inventors(s) for DO/EO/US.

☐ Copy of Article 19 amendments.

☐ Translation of Article 19 amendments into English.

☐ The International Preliminary Examination Report in English and its Annexes, if any.

☐ Translation of Annexes to the International Preliminary Examination Report into English.

☒ Preliminary amendment(s) filed 12 SEP 2001 and _____

☐ Information Disclosure Statement(s) filed _____ and _____

☐ Assignment document.

☐ Power of Attorney and/or Change of Address.

☐ Substitute specification filed _____

☐ Statement Claiming Small Entity Status.

☒ Priority Document.

☒ Copy of the International Search Report ☒ and copies of the references cited therein.

☐ Other:

2. The following items **MUST** be furnished within the period set forth below in order to complete the requirements for acceptance under 35 U.S.C. 371:

- ☐ a. Translation of the application into English. Note a processing fee will be required if submitted later than the appropriate 20 or 30 months from the priority date.

☐ The current translation is defective for the reasons indicated on the attached Notice of Defective Translation.

- ☐ b. Processing fee for providing the translation of the application and/or the Annexes later than the appropriate 20 or 30 months from the priority date (37 CFR 1.492(f)).

- ☒ c. Oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date.

☐ The current oath or declaration does not comply with 37 CFR 1.497(a) and (b) for the reasons indicated on the attached PCT/DO/EO/917.

- ☒ d. Surcharge for providing the oath or declaration later than the appropriate 20 or 30 months from the priority date (37 CFR 1.492(e)).

3. Additional claim fees of \$ _____ as a ☐ large entity ☐ small entity, including any required multiple dependent claim fee, are required. Applicant must submit the additional claim fees or cancel the additional claims for which fees are due (37 CFR 1.492(g)). See attached PTO-875.

ALL OF THE ITEMS SET FORTH IN 2(a)-2(d) AND 3 ABOVE MUST BE SUBMITTED WITHIN ONE MONTH FROM THE DATE OF THIS NOTICE OR BY ☐ 21 OR ☒ 31 MONTHS FROM THE PRIORITY DATE FOR THE APPLICATION, WHICHEVER IS LATER. FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT.

The time period set above may be extended by filing a petition and fee for extension of time under the provisions of 37 CFR 1.136(a).

4. Translation of the Annexes **MUST** be submitted no later than the time period set above or the annexes will be cancelled. Note processing fee will be required if submitted later than 30 months from the priority date.

5. ☐ The Article 19 amendments are cancelled since a translation was not provided by the appropriate 20 (37 CFR 1.494(d)) or 30 (37 CFR 1.495(d)) months from the priority date.

Applicant is reminded that any communication to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above. (37 CFR 1.5)

A copy of this notice MUST be returned with this response.

Enclosed: ☐ PCT/DO/EO/917

☐ Notice of Defective Translation

☐ PTO-875

FORM PCT/DO/EO/905 (December 1997)

National Stage Processing

Paralegal Specialist

Telephone: (703) 703 805-3734